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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,482	07/24/2003	Amit Bagga	502079-A-01-US (Bagga)	1294
47702 7590 06/07/2007 RYAN, MASON & LEWIS, LLP 1300 POST ROAD SUITE 205 FAIRFIELD, CT 06824			EXAMINER GELAGAY, SHEWAYE	
			ART UNIT 2137	PAPER NUMBER
			MAIL DATE 06/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/626,482	Applicant(s) BAGGA ET AL.	
	Examiner Shewaye Gelagay	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 18-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to Applicant's amendment filed on March 30, 2007. Claims 1, 23 and 39 have been amended. Claims 16-17 have been canceled. Claims 1-15 and 18-39 are pending.

Claim Rejections - 35 USC § 112

2. In view of the amendment filed March 30, 2007, the Examiner withdraws the rejection of claims 1-39 under 35 U.S.C. 112.

Claim Rejections - 35 USC § 101

3. In view of the amendment filed March 30, 2007, the Examiner withdraws the rejection of claims 1-39 under 35 U.S.C. 101.

Response to Arguments

4. Applicant's arguments filed March 30, 2007 with respect to the Double Patent rejection have been considered but are moot in view of the new ground(s) of rejection. The rest of Applicant's arguments have been fully considered but they are not persuasive.

The applicant argued that Honarvar does not disclose or suggest that "the user has previously answered with a third party customer verification server that is independent of said first server," as required by each independent claim. Honarvar

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teaches a user-authentication engine to perform user authentication processes by accessing data from multiple internal sources and external third party data sources. Honarvar teaches a multifactor user authentication process that integrates and/or accommodates verifying a digital certificate previously issued to an individual against a certificate authority. The authentication engine generates user authentication examination by using user information from data sources to determine questions, to determine answers to be provided by the user. (page 2, paragraph 28; page 7, paragraph 112)

Therefore, all the rejection is maintained as given below.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 24 and 39 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 22 and 32 of copending application number 10/626,483.

Claims 1, 24 and 39 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 22 and 32 of copending application number 10/626,483 in view of US Publication Number 2003/0154406.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the instant application and the claims in the copending application teach a method of authentication a user by obtaining asserted identity of a user, obtaining a random subset of questions that the user has previously answered and presenting one or more of said questions until a predefined security threshold is satisfied; and authenticating a user when said predefined security threshold is satisfied. The only difference is the claims in the instant application recite "obtaining a random subset of question that said user has previously answered with a third party..."

Honarvar teaches a user-authentication engine to perform user authentication processes by accessing data from multiple internal sources and external third party data sources. The authentication engine generates user authentication examination by using user information from data sources to determine questions, to determine answers to be provided by the user. (page 2, paragraph 28; page 7, paragraph 112) Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the method disclosed by the copending application ('483) to include "obtaining a random subset of question that said user has previously

answered with a third party..." This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so in order to provide a multi-factor user authentication processes using any data sources providing information about and/or known to users to authenticate users. (Abstract; Honarvar)

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Honarvar et al. (hereinafter Honarvar) US Publication Number 2003/0154406.

As per claims 1 and 39:

Honarvar teaches a method for authenticating a user, comprising:

obtaining an asserted identity of said user; (page 2, paragraph 28; page 6, paragraphs 100 and 105)

obtaining a random subset of questions that said user has previously answered with a third party customer verification server that is independent of said first server;

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(page 6, paragraphs 104-105; page 2, paragraph 28; page 7, paragraph 112; page 9, paragraphs 120 and 122; page 10, paragraphs 126-127) and

presenting one or more questions to said user from said random subset of questions until a predefined security threshold is satisfied, wherein said user is authenticated when said predefined security threshold is satisfied. (page 22, paragraphs 233-234, 236, 237)

As per claims 2 and 25:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein said user is directed to said customer verification server during an enrollment phase. (page 12, paragraph 143)

As per claims 3 and 26:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein said user verification server instructs said user to select and answer a number of questions that will be used for verification. (page 13, paragraph 145)

As per claims 4 and 27:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses comprising the step of storing said selected questions at said user's location. (page 9, paragraph 120)

As per claims 5-6 and 28:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses comprising the step of storing said selected questions at said

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customer verification server. (page 22, paragraphs 233, 236, 237)

As per claims 7, 9 and 29:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein said obtaining step further comprises the step of obtaining answers from said user for said selected questions. (page 6, paragraph 105)

As per claims 8 and 30:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein said presenting step is performed by an authentication module. (page 7, paragraphs 112)

As per claims 10 and 31:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein said predefined security threshold is based on a sum of security weights of correctly answered questions. (page 22, paragraphs 234)

As per claim 11:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein one or more of said questions are directed to an opinion of said user. (page 2, paragraph 27)

As per claim 12:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein one or more of said questions are directed to a trivial fact. (page 2, paragraph 25)

As per claim 13:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein one or more of said questions are directed to an indirect fact. (page 2, paragraph 24)

As per claims 14-15:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses comprising the step of presenting said user with a larger pool of potential questions for selection of one or more questions to answer. (page 6, paragraphs 104-105; page 9, paragraphs 120 and 122; page 10, paragraphs 126-127)

As per claim 32:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses comprising the step of ensuring that answers to user selected questions cannot be qualitatively correlated with said user. (page 2, paragraph 20)

As per claim 33:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses comprising the step of ensuring that answers to user selected questions cannot be quantitatively correlated with said user. (page 2, paragraph 20)

As per claims 18 and 34:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein said questions from said random subset of questions are presented to said user in a random order. (page 25, paragraph 266)

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As per claims 19 and 35:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein said questions are presented to said user in the form of an index identifying each question. (figure 35)

As per claims 20 and 36:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein said user responds to said questions by returning an index identifying each answer. (page 21, paragraph 228-page 22, paragraph 233)

As per claims 21-22 and 37-38:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses wherein said index identifying each answer can be aggregated to form a password. (page 21, paragraph 228-page 22, paragraph 233)

As per claim 23:

Honarvar teaches all the subject matter as discussed above. In addition, Honarvar further discloses comprising the step of storing an indication of said subset of questions on a device or wallet card or piece of paper associated with said user. (page 7, paragraphs 112)

As per claim 24:

Honarvar teaches an apparatus for authenticating a user, comprising:
a memory; (page 7, paragraph 109) and
at least one processor, coupled to the memory, (page 7, paragraph 109)
operative to:

obtain an asserted identity of said user; (page 2, paragraph 28; page 6, paragraphs 100 and 105)

obtain a random subset of questions that said user has previously answered with a third party customer verification server that is independent of an entity associated with said apparatus; (page 6, paragraphs 104-105; page 2, paragraph 28; page 7, paragraph 112; page 9, paragraphs 120 and 122; page 10, paragraphs 126-127) and

present one or more questions to said user from said random subset of questions until a predefined security threshold is satisfied, wherein said user is authenticated when said predefined security threshold is satisfied. (page 22, paragraphs 233-234, 236, 237)

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shewaye Gelagay whose telephone number is 571-272-4219. The examiner can normally be reached on 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Shewaye Gelagay


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER